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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,431	11/12/2003	Kenneth S. Dueker	2691P	9952

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EXAMINER

SWARTHOUT, BRENT

ART UNIT PAPER NUMBER

2636

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,431

Applicant(s)

DUEKER ET AL.

Examiner

Brent A. Swarthout

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58-61 is/are allowed.
- 6) ☒ Claim(s) 1-18, 23, 29-57 and 62-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-12-03</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1-3,7,10,11,13,14,36,39-42 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin, Jr. et al.

Martinez discloses an illumination device comprising shell with plural sides 14,52, light emitter 27 inside shell for emitting light through plural sides of the shell, except for means for attaching to a surface from sides of the shell.

Anglin teaches desirability of using means 76 to secure to a shell of an illumination device to attach to other surfaces.

It would have been obvious to use attachment means as suggested by Anglin in conjunction with an illumination device as disclosed by Martinez, in order to allow the illumination device to be attached to other devices so it would not have to have been continuously held.

Regarding claim 2, Martinez teaches top half 14 and bottom half 52, which are symmetrical.

Regarding claim 7, Martinez teaches hole in housing for placement of switch contacts 32,34.

Regarding claim 10, Anglin teaches use of clip 76.

Regarding claim 13, Martinez teaches use of power means 42.

Regarding claim 36, Martinez teaches use of bulb 27.

Regarding claims 39-42, using the illumination device to illuminate a target, area, emit signals or for use in traffic safety would have been obvious manners of intended use.

2. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin, Jr. et al. and Moore.

Moore discloses use of primary and secondary ribs 64,84 in symmetrical halves of a housing (Fig.5).

It would have been obvious to use ribs such as suggested by Moore in conjunction with a housing as disclosed by Martinez, in order to provide greater structural integrity for the housing.

3. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin, Jr. et al. and Parashar.

Parashar discloses placement of a solid filler material 57 in a illumination device (Fig. 2).

It would have been obvious to place filler as suggested by Parashar inside a housing as disclosed by Martinez, in order to make a housing more ruggedized, in order to make a light less susceptible to breakage if dropped.

Regarding claim 12, Parashar teaches desirability of including a circuit board 59 in an illumination device in order to allow ease of installation and replacement of control circuitry.

4. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Lenz et al.

Lenz discloses use of an illumination device as a firefighter beacon (col.1, line 15).

It would have been obvious to use an illumination structure as disclosed by Martinez and Anglin for use in a firefighter environment as suggested by Lenz, in order that an easily maintained, assembled device could have been used in firefighting, where illumination devices would have been subject to regular maintenance and testing.

5. Claims 8,15-17,18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Laszlo et al.

Laszlo teaches desirability of using notch 76 with contact for engaging charging means for insertion into notch in an illumination device 10.

It would have been obvious to include recharging notch as suggested by Laszlo in conjunction with a illumination structure as disclosed by Martinez and Anglin in order to allow an illumination device to be recharged to provide longer useful life.

Regarding claims 15-17, use of a circuit board of Laszlo would have been obvious for ease of installation and control of illumination device. Charging adapter plugs also typically include a guide with the notch to allow insertion of a plug, and would obviously have included electrical connection to circuitry.

Furthermore, choosing to use an O-ring would have been obvious in order to seal openings from moisture and contamination from environmental contaminants.

Regarding claim 18, since Laszlo discloses that an electrode 44 can be used to make a connection between circuit board 20 and power source 72, choosing to have the electrode be in the form of a spring would have been obvious, merely depending on how flexible it was desired to have the electrode.

Regarding claim 23, since Laszlo teaches use of recharging port 76 for connection to external power source, it would have been obvious to include a power source externally in conjunction with a device as disclosed by Martinez and Anglin, in order that a device could have been recharged from an external source.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Turboflare.

Turboflare teaches desirability in an illumination device of automatically turning on an illumination device once it is disengaged from a charger.

It would have been obvious to include automatic activation as suggested by Turboflare in conjunction with an illumination device as suggested by Martinez and Anglin, in order that a device could have been ready for operation as soon as it was charged up without having to activate specific switch means, thus allowing easier operation by an individual in low light conditions.

7. Claims 29-35,47 and 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Bond.

Bond discloses desirability of using an outer layer 48 outside of a shell portion supporting plural lights 60.

It would have been obvious to use an outer layer as suggested by Bond in conjunction with a light structure as disclosed by Martinez and Anglin, in order to allow the lighting device to be more waterproof so as to be used acceptably in harsh environments.

Regarding claim 31, Bond teaches use of sealing means to make the outer layer watertight (col. 2, lines 26-35).

Regarding claim 33, outer layer 48 is transparent. (col.2, line 19).

Regarding claim 34, choosing to use a well-known injection molding process to form an outer layer would have been obvious, merely depending on what type of material was chosen for the outer layer, injection molding being an extremely well-known technique for forming low cost plastic structures.

Regarding claims 62-64, claims merely describe well-known molding techniques that would have been obvious to one of ordinary skill in the art seeking to form a device using low cost plastic materials.

8. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Morgenthaler

b. Morgenthaler teaches desirability of adjusting intensity of an illumination device based on ambient light conditions (abstract).

It would have been obvious to use ambient light intensity controls as suggested by Morgenthaler in conjunction with an illumination device as disclosed by Martinez and Anglin, in order to provide appropriate lighting intensity that could be seen clearly for varying light conditions.

9. Claims 38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Campman.

Campman teaches desirability of using infrared lighting in conjunction with a portable illumination device (col. 8, line 52).

It would have been obvious to use infrared lighting as suggested by Campman in conjunction with a lighting system as suggested by Martinez and Anglin, in order to allow a rugged lighting device to be used for covert operations if desired.

Regarding claim 45, Campman teaches desirability of using the illumination device underwater (col. 7, line 28).

10. Claims 44, 48-50, and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al. and Pieroway et al.

Pieroway teaches desirability of using portable illumination devices 15 for a landing field environment (Fig. 1a).

It would have been obvious to use portable illumination devices as suggested by Martinez and Anglin in a landing field environment as suggested by Pieroway, in order to have a ruggedized landing light that would have worked properly in a harsh operating environment.

Regarding claims 48-50 and 52-56, Pieroway discloses use of master first device 15 and slave second devices 15 (Fig. 1a), which have communication ports for synchronous communication through antennas to provide a pattern of light emissions (col.5, line 63). The antenna circuitry is external to the light housing.

11. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Anglin Jr. et al., Pieroway et al. and Laszlo et al.

The claim is rejected for the same reasons as set forth previously with regard to claims 8 and 48.

12. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez in view of Laszlo et al.

The claim is rejected for the same reasons as set forth previously with regard to claims 1 and 8.

13. Claims 58-61 are allowed.

14. Claims 19-22 and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartunek, Guerrieri, Povey and Halabi disclose portable illumination devices.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A

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Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brent A Swarthout
Art Unit 2636

**BRENT A. SWARTHOUT
PRIMARY EXAMINER**